



20 May 2011

## Position Paper on Sustainable Mobility

### 1. Executive Summary

The Foreign Investors Council in Latvia (FICIL) position is that the Government should actively develop a national plan for “sustainable mobility” to enable economic growth and promote integration, sustainability, territorial cohesion and openness within the transportation network of the Republic of Latvia.

To this end, FICIL recommends drafting a Strategic National Transportation Plan that focuses on: 1) establishing transparency – forward-looking governance and organizational restructuring of various transportation authorities, and 2) identifying transport-related industry synergies that not only fulfil future infrastructure needs, but comprehensively catalyze national economic development.

FICIL has considered and supports conceptually the various mobility and large-scale transportation initiatives being led by the government. It is important that all of these initiatives and future prioritized transportation improvements can be seen as a solid investments focussed on not only addressing existing infrastructure needs, but as investments that facilitate free-market competition and revenue generation to the State.

### 2. Recommendation

Transportation is the “engine room” of the nation’s economy. The Strategic National Transportation Plan should define strategic priorities, desired outcomes and short, medium and long term actions that relate to all transport sectors equally. The plan should encompass strategies that include, but are not limited to:

- creating frameworks for mapping supply chains to identify capacity bottlenecks, regulatory barriers and other opportunities to improve the efficiency of infrastructure use;
- establishing a fair national market for transport which includes efficient pricing and regulation across all modes to deliver the right balance of mode choices and investment;
- identifying smarter long-term investments in the right place at the right time based on clear economic, safety, environmental and social criteria;
- addressing skills shortages through national programs to improve workplace conditions, training and recruitment for transport and allied industry workers;
- establishing a co-ordinated national research strategy and data framework across all modes, and
- reforming institutional frameworks to deliver sustainable mobility.

For Latvia the focus must be placed more on policy and governance rather than on actual project implementation and on revenue generation rather than capital expenditure.

### Focus 1: Establishing Transparency

In order to make the transportation sector more transparent, homogenous and effective both from the point of view of long-term development and predictability of economics, FICIL initiates the following recommendations for your consideration:

- Strengthen national transportation authorities for each transportation sector (ports, railroads, roads and airports) that have the responsibility to assess, evaluate and propose improvements at the national level for restructuring of operations and establish sector-based business/action plans;
- Establish a clear mission and vision for each transportation sector that relates to not only internal operations, but also emphasizes synergies with other related industry-sectors (energy, economy, environment, settlements, real estate, etc.);
- Assess and restructure the operations of each transportation sector to become more “landlord-based” (promoting private business and investment) rather than “operator-based” (internalized services and operations).
- Enable and provide a secure platform for private investment in transportation infrastructure improvements, by abolishing non-transparent internal practices.
- Evaluate and abolish unnecessary policies and procedures that restrict free-trade and competition in providing transportation related services.
- Provide private enterprise free access to available transportation infrastructure and facilities to promote free-trade and increased revenue generation.
- Shift from subsidizing carriers to subsidies to certain groups of passengers and freight thus creating a fair platform for a market based competition.

### Focus 2: Identifying Transport-Related Industry Synergies

In order to proactively identify various transport-related industry synergies in a view to catalyze development in various industry sectors simultaneously, FICIL initiates the following recommendations for your consideration:

- Utilise the Coordination Council for Large and Strategically Important Investment Projects in order to identify and offer to the potential investors significant transport related projects supported by the Government. Council should take on the on-going responsibility to assess, evaluate and prioritize transportation initiatives at the national and local level to promote growth not only in the transportation sector, but in allied industry sectors [primary sectors – raw materials, secondary sectors – refining/construction/manufacturing, tertiary sectors – services/distribution, and quaternary sectors – research/design/ development]
- Promote logical synergies that are inherent to the transportation sector:
  - electrification [transport-energy],
  - sustainable implementation [transport-construction/ manufacturing]
  - operations and maintenance [transport-services]
  - innovation [transport-research/development]
  - social stability [home – transport – jobs - services]
- Focus primarily on the implementation of affordable transportation projects that have the potential to generate revenues in a multi-sector approach.
- Prescribe methodologies and approaches to further evaluate and develop long-term large-scale projects to significantly impact economic growth.

### 3. Rationale

#### Focus 1: Establishing Transparency

##### CASE STUDY: Port Authorities in the Republic of Latvia

###### Mission and status of Port Authorities is unclear

The Law on Ports states that port authorities in Latvia shall manage the land and aquatorium within the territory of the port and supervise companies that do business within the port territory. At the same time, port authorities may act as private enterprises – engaging themselves in any business related to the port. This leads to the situation where the Port authorities both supervise and actively participate in port business itself, “supervising” its actual or potential competitors.

Competitors are forced to leave the market or come to the consensus that the market is not truly “open”. Examples of this can be seen in operations related to tugboats, waste collection, passenger ferries, cruise ships, agencies etc. This unpredictable port authority activity increases uncertainty and limits market competition.

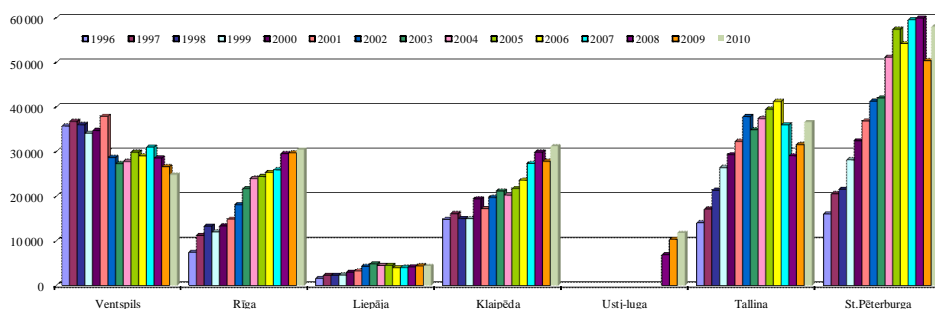
Note that the Competition Council has fined Riga Port three times for its abuse of dominant position vis-à-vis private competitors and there are three active cases in the European Commission (two at DG Competition and one at DG Move) against Riga Port and Latvia respectively for violation of competition rules and freedom of establishment.

Port authorities are quasi-state/local government agencies, which do not pay taxes and have their own budgets. The authorities do not have a ‘shareholder’, to whom it is accountable or to whom it distributes profit. Profits are typically transferred to the following year budget but not necessarily invested into port infrastructure development as was initially intended.

This sharply contrasts with the Tallinn Port, which describes itself as a landlord type of port with no cargo handling operations of its own. It is maintaining and developing the infrastructure of the port and leasing territories to terminal operators, giving the operators an incentive to invest into their infrastructure and technology.

Freight volumes in eastern Baltic Sea ports  
1996 - 2010

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2010/ 2009	Port Type
Ventspils	35 744,6	36 780,5	36 046,4	34 136,5	34 755,4	37 936,7	28 703,7	27 316,2	27 805,3	29 863,0	29 062,2	31 037,3	28 569,6	26 640,2	<b>24 816,0</b>	-6,8	Operator
Riga	7 457,0	11 213,1	13 315,3	12 012,5	13 351,7	14 883,9	18 108,3	21 721,7	23 991,3	24 429,1	25 357,0	25 932,8	29 565,9	29 724,4	<b>30 475,6</b>	2,8	Operator
Liepāja	1 609,0	2 295,8	2 296,5	2 324,1	2 964,7	3 260,4	4 318,1	4 857,4	4 474,1	4 508,4	4 000,7	4 038,7	4 187,7	4 381,3	<b>4 383,8</b>	0,1	Operator
Klaipēda	14 828,7	16 118,0	15 003,3	14 971,0	19 396,3	17 236,0	19 739,6	21 192,0	20 252,9	21 794,0	23 611,2	27 362,0	29 879,8	27 863,1	<b>31 234,3</b>	12,1	Landlord
Ustj-luga													6906,7	10357,8	<b>11775,6</b>	13,7	Landlord
Tallina	14 080,0	17 133,1	21 363,5	26 445,3	29 341,9	32 316,2	37 854,8	34 916,1	37 422,1	39 527,8	41 258,6	36 027,6	29 077,0	31 597,0	<b>36 649,5</b>	16,0	Landlord
St.Pēterburga	16 045,8	20 588,6	21 558,8	28 172,0	32 462,0	36 900,3	41 307,3	42 043,8	51 173,1	57 462,0	54 241,8	59 608,4	59 945,0	50 405,9	<b>58 052,9</b>	15,2	Landlord



Source: Summary of Port Authority Annual Reports

Therefore, for the development of the Riga Port, and other ports in Latvia, it is crucial for legislators to decide whether the Latvian ports will work as a landlord, promoting independent private business and investments, or as an active service provider, competing with private businesses. Note, the trend in the EU currently is to move towards port authorities that do not provide services, but only care for the security and infrastructure of the port. However, both attempts by the European Commission to pass the Ports Directive have failed.

#### Security of investments in ports

To invest in a port in Latvia, a company must lease the land and/or berth from a Port authority. Whilst the law states that the land can be owned by private parties, there is only one private berth in the entire Riga Port. All others are leased from the port, even though all investments to build a berth are made by private parties. Lease agreements do not provide any security that the investments made in terminals or other properties at the port will be recovered. At the same time, port authorities have the right to terminate lease agreements for non-predictable reasons. For instance, lease agreements with the Riga Port contain an arbitration clause that any disputes between the parties must be heard in arbitration court, and the said arbitration court is chosen by the Port authority.

Recently amendments were passed in the Law on ports, granting rights to the Port authority to use the leased territories for its own purposes, against the will of the party legally using/leasing the land. This clearly is also a warning sign for potential investors that their investments are not secure.

Further, the Port authority has the right to unilaterally change the amount of lease payments. In the past there have been situations where the port authority chose to unilaterally increase the lease amount to a sum that was significantly higher than the original amount. If a company loses the right to lease territory at port, a company also loses the right to provide commercial activities at port. This results in awkward management situations where private investments are being managed by third parties.

#### Permission to conduct business within the port territory

For years, companies willing to do any type of business in the ports of Latvia had to apply to Port Authority with a request to conclude an agreement on commercial activities or to obtain a license. 90% of the companies in Latvian ports have signed an agreement that permits them to provide services within the port territory – essentially the agreement is a license to work at the port.

The law sets very vague criteria, which should be met in order to sign an agreement (“good reputation and a good financial status of the shareholder of company”). Agreements usually are concluded for a period of one year and the Port authority can refuse to prolong the agreement without any cause. The Port authority can also cancel the agreement at any time, if it determines that the shareholder’s reputation has „worsened” or the company has failed to observe port rules. Any commercial activity without agreement is a violation of law.

The Law on Ports has been unclear as to jurisdiction of this matter and Port Authority has always interpreted this as a civil matter, effectively preventing everyone that received refusal to conclude such an agreement from contesting it at court. Civil courts cannot oblige port authority to conclude an agreement with anyone as this can be done only by virtue of administrative law. Some companies have tried to contest refusals at administrative courts but the latter refused accepting said application. The Law on Ports was amended in November 2010, expressly stating that going forward all matters relating to agreements on commercial activities must be heard at civil courts.

However, on 3 May the Administrative Chamber of Supreme Court ruled that matters regarding issues on conclusion of agreements on commercial activities is a pure administrative matter and must be heard at administrative courts. From now Port Authority will have to give reasons why it does not want to conclude an agreement on commercial activities and any decision regarding such an agreement will be subject to review in administrative courts.

Many companies, global or regional leaders in their field of activity, have walked away discouraged by receiving unfound refusals from Port Authority in the past years.

To be a licensed company, the applicant must have rights to some territory at port and apply there a full customs zone there. However, in practice, port authorities do not lease the land belonging to the port until the company has licensed status. Unfortunately, it is impossible to get licensed company status without land – a no-win or double bind situation.

#### Access to infrastructure at port

It is the duty of the Port authority to build and invest in the infrastructure of the port to ensure its users the required entry and exit to their leased property. Unfortunately, in practice, private companies are forced to build their own roads and railroads. However, the territory of the Port is limited – in most cases only one railroad line can be built to link the public infrastructure to the private territory. This creates a situation where several different companies are forced to lease one particular railroad line. This also creates awkward easement issues and potential unfair policies regarding charging for access. There is a lack of regulation with regard to access to the port via rail or road, and the fees that must be paid for this access.

Evidence shows that liberalization of the Port authorities is required to promote free-market competition and economic growth in this transportation sector. For effective and profitable operations the Government must reconsider and amend the laws related to Ports by:

- Changing their mission and overall operational structure to:
  - Transform to a “landlord-type” port;
  - Develop infrastructure to be leased to private enterprises on fair conditions;
  - Ensure unlimited access to all types of port infrastructure on an equal and transparent basis;
  - Establish long-term leases of land and berths with clear terms and benchmarks;
  - Abolish system of unequal licensing and tariffs for services provided by private companies;
  - Provide safety and security for tenants and goods within the port territory.
- Changing internal governance and accountability to:
  - Transform the port authorities into private port enterprises (commercial law companies) that run port activities;
  - Establish a shareholder ownership structure for “checks and balances”;
  - Establish additional board positions for representatives of companies working in the ports;
  - Develop a shareholder representation rotation mechanism every two (2) years for the private port enterprises;
  - Establish a full taxation regime to private port enterprises with income distributed as dividends;
  - Consider IPO strategies and potential listing of shares on the stock exchange.

These strategies for liberalization and transparent governance can be applied to all transportation sectors in Latvia.

## Focus 2: Transport-Related Industry Synergies

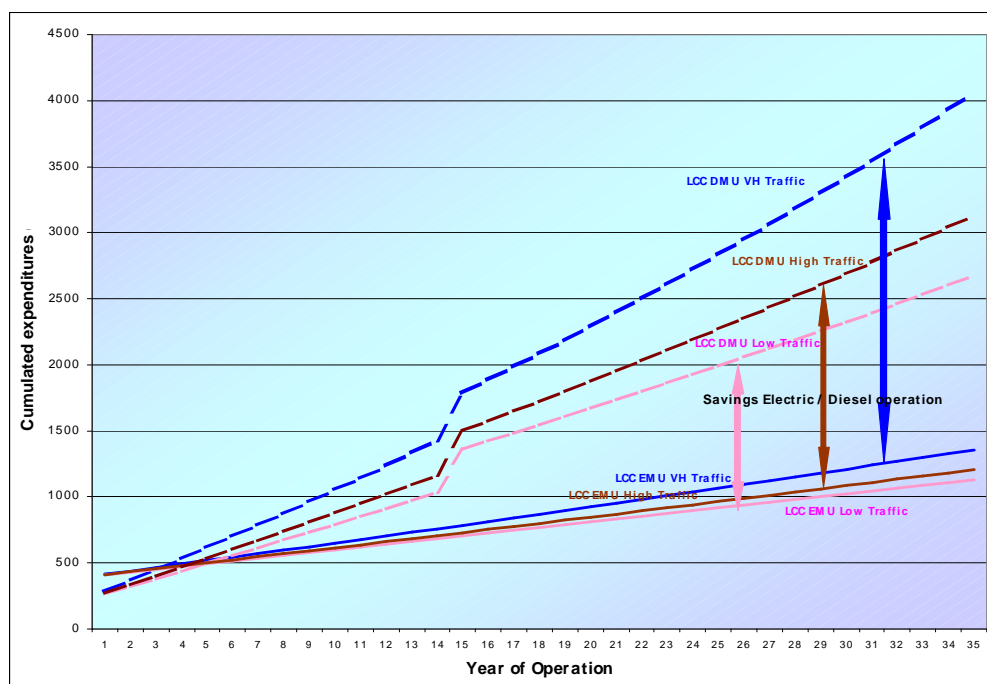
### CASE STUDY: Rail Electrification

The railway mainline and urban transportation network in Latvia is underdeveloped – the country will have to catch up to the EU’s level to remain competitive. Latvia is inherently in a strategic geographical “gateway” position for east-west freight transport and also is inherently a transit country from north to south for freight and passenger flows.

To increase the competitiveness of Latvia’s freight and passenger services, the existing rail infrastructure and local public transportation infrastructure needs significant improvements. As a result, transportation authorities have prioritized numerous transportation initiatives including transit corridor improvements, tram and trolley-bus replacements, railway modernization projects, as well as high-level EU directives such as Rail Baltica. In such transportation network improvement projects, one must consider the appropriate and substantiated source of power/fuel. It has been noted that electrification is a much better option than diesel for these various modes of transportation, even in the short-term.

The advantages of electrification include:

- lower running cost of locomotives, multiple units, trams and trolley-buses;
- lower maintenance costs;
- higher power-to-weight ratio, resulting in fewer locomotives/smaller engines, faster acceleration, higher practical limits of power, and higher limits of speed;
- less noise pollution (quieter operation);
- lack of dependence on crude oil as fuel;
- lower environmental pollution, even if electricity is produced by fossil fuels.



Source: ALSTOM Rail Electrification Study

Legend: Life Cycle Costs (LCC) for Very High volume (VH Traffic), High Volume and Low Volume Traffic with Diesel (DMU) or Electric Trains (EMU).

Latvia’s energy sector is also in a similar under-developed situation. Latvia stands among those countries that are dependent from imported energy resources. The most significant utilized local energy sources are wood and hydro energy (Daugava HPP cascade). Solid fuel, oil products and electricity are imported from several countries and supply regions, but for natural gas there is only

one supplier – Russia. The split of energy flows shows the relatively high dependence from energy import – only 29,6% of total energy consumption is covered by local energy resources. In 2008 total primary energy consumption was 196,5 PJ which is 19,9% higher than 2000. Final consumption was 178,7 PJ which is 28,5% higher than 2000.

Power plants in Latvia are not able to provide the total amount of electricity required to match consumption. A shortage of supply of electricity or, in some cases, the sale of surplus electricity has been resolved by international electricity grid interconnections. Variation in hydro resources influenced the amount of electricity produced by Daugava HPP cascade. In 2008 total consumption of electricity was 7794 GWh which is 31,6% higher than consumption in 2000.

This results in the fact that Latvia must import electricity, which creates an unneeded interdependence with neighbouring countries.

The transportation sector (nationally and locally) is currently a significant consumer of electricity as rail electrification, tram and trolleybus electrification, and private and commercial transport – almost 2% of all electrical consumption is attributed to transportation. If the major future transportation improvement projects were to consider electrification, the electrical consumption of the transport sector could become 5% of the total electricity consumption in Latvia. The electrification of rail infrastructure alone would add roughly 300 GWh of additional consumption. This increased electrical demand represents slightly more than half of the amount of additional electricity currently being planned for the New Riga CHP-2 plant. Approximately 1TWh would be added to this if all fossil fuel vehicles in Latvia would switch over to electricity and 134MW of electrical capacity would be needed to cover this.

Since electrification is the preferred and sustainable means to supply energy for future heavy and light transportation networks, a strategic parallel industry sector approach must be established to provide an adequate supply of electricity for consumption.

A decentralized private industry approach to provide local “clean and green” power generation should be established to mitigate potential fossil fuel price increase and compensate for the lack of sufficient generating capacity, the tackling of which is not reflected in any near future plans of the current energy incumbent Latvenergo. Such an approach compliments the implementation of future large-scale transportation infrastructure improvements. If structured appropriately, Latvia could be very well positioned to produce the required electricity (conventional and alternative energies) for the transportation networks of not only Latvia, but the Baltic States region as well. In addition, if implemented using alternative and environmentally friendly methods, Latvia could enhance its global awareness as one of the leaders in sustainable energy production.